

Introduced by Senator Simitian

February 17, 2005

An act to amend Section 116.220 of the Code of Civil Procedure, relating to small claims court.

LEGISLATIVE COUNSEL'S DIGEST

SB 422, as introduced, Simitian. Small claims court: jurisdiction.

Existing law specifies that the jurisdiction of the small claims court includes various actions in which the demand does not exceed \$5,000, with specified exceptions.

This bill would increase the amount of the possible demand in small claims court from \$5,000 to \$10,000, with specified exceptions.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 116.220 of the Code of Civil Procedure
2 is amended to read:
3 116.220. (a) The small claims court—~~shall have~~ *has*
4 jurisdiction in the following actions:
5 (1) Except as provided in subdivisions (c), (e), and (f), for
6 recovery of money, if the amount of the demand does not exceed
7 ~~five ten thousand dollars (\$5,000)~~ *(\$10,000)*.
8 (2) Except as provided in subdivisions (c), (e), and (f), to
9 enforce payment of delinquent unsecured personal property taxes
10 in an amount not to exceed ~~five ten thousand dollars (\$5,000)~~
11 *(\$10,000)*, if the legality of the tax is not contested by the
12 defendant.

1 (3) To issue the writ of possession authorized by Sections
2 1861.5 and 1861.10 of the Civil Code, if the amount of the
3 demand does not exceed ~~five ten~~ thousand dollars ~~(\$5,000)~~
4 ~~(\$10,000)~~.

5 (4) To confirm, correct, or vacate a fee arbitration award not
6 exceeding ~~five ten~~ thousand dollars ~~(\$5,000)~~ ~~(\$10,000)~~ between
7 an attorney and client that is binding or has become binding, or to
8 conduct a hearing de novo between an attorney and client after
9 nonbinding arbitration of a fee dispute involving no more than
10 ~~five ten~~ thousand dollars ~~(\$5,000)~~ ~~(\$10,000)~~ in controversy,
11 pursuant to Article 13 (commencing with Section 6200) of
12 Chapter 4 of Division 3 of the Business and Professions Code.

13 (b) In any action seeking relief authorized by subdivision (a),
14 the court may grant equitable relief in the form of rescission,
15 restitution, reformation, and specific performance, in lieu of, or
16 in addition to, money damages. The court may issue a
17 conditional judgment. The court shall retain jurisdiction until full
18 payment and performance of any judgment or order.

19 (c) Notwithstanding subdivision (a), the small claims court
20 ~~shall have~~ *has* jurisdiction over a defendant guarantor who is
21 required to respond based upon the default, actions, or omissions
22 of another, only if the demand does not exceed (1) two thousand
23 five hundred dollars (\$2,500), or (2) on and after January 1,
24 2000, four thousand dollars (\$4,000), if the defendant guarantor
25 charges a fee for its guarantor or surety services or the defendant
26 guarantor is the Registrar of the Contractors' State License
27 Board.

28 (d) In any case in which the lack of jurisdiction is due solely to
29 an excess in the amount of the demand, the excess may be
30 waived, but any waiver ~~shall not become~~ *is not* operative until
31 judgment.

32 (e) Notwithstanding subdivision (a), in any action filed by a
33 plaintiff incarcerated in a Department of Corrections facility or a
34 Youth Authority facility, the small claims court ~~shall have~~ *has*
35 jurisdiction over a defendant only if the plaintiff has alleged in
36 the complaint that he or she has exhausted his or her
37 administrative remedies against that department, including
38 compliance with Sections 905.2 and 905.4 of the Government
39 Code. The final administrative adjudication or determination of
40 the plaintiff's administrative claim by the department may be

1 attached to the complaint at the time of filing in lieu of that
2 allegation.

3 (f) In any action governed by subdivision (e), if the plaintiff
4 fails to provide proof of compliance with the requirements of
5 subdivision (e) at the time of trial, the judicial officer shall, at his
6 or her discretion, either dismiss the action or continue the action
7 to give the plaintiff an opportunity to provide ~~such~~ *that* proof.

8 (g) For purposes of this section, “department” includes an
9 employee of a department against whom a claim has been filed
10 under this chapter arising out of his or her duties as an employee
11 of that department.